

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

WILLIAM MICHAEL HAZELBAKER,)	No. ED101048
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Charles County
vs.)	
)	Honorable Ted Clint House
MARIA JENIFREDA HAZELBAKER,)	
)	
Appellant.)	FILED: November 12, 2014

Maria J. Hazelbaker (“Mother”) appeals from the judgment of the trial court modifying the legal and physical custody provisions of a January 17, 2012 dissolution decree. The decree granted Mother and William M. Hazelbaker (“Father”) joint legal and physical custody of their minor child, Jenika (“Child”), and named Father the residential parent. Mother filed a motion seeking sole legal and physical custody of Child, and Father filed a cross-motion to modify seeking to restrict Mother’s temporary custody and increase her child support obligations. Following a trial on the motions, the trial court granted Father sole legal custody of Child and modified the parties’ physical custody periods as set forth in a new parenting plan. On appeal, Mother argues that the trial court erred in admitting the testimony of Dr. Ann Duncan-Hively because the parties’ settlement agreement prohibited Father from calling Dr. Duncan-Hively as a witness in any future proceeding concerning the custody of Child. Mother also asserts the trial court erred by failing to appoint a guardian ad litem because Section 452.423 mandates the appointment of a GAL in any proceeding in which abuse or neglect is alleged.

AFFIRMED.

Division III holds: The parties’ agreement to preclude Dr. Duncan-Hively as a witness is unenforceable. In addition, the circumstances presented by the parties’ motions and evidence did not require the appointment of a GAL. Accordingly, we find no error and affirm the judgment of the trial court.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: Daniel Schramm and Dara M. Strickland

Attorney for Respondent: Richard A. Gartner and Jason R. Caudill

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